

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

JOHN G. JACOBS,

Plaintiff,

vs.

BANK OF AMERICA, N.A.;
RECONTRUST COMPANY, N.A.;
and SPECIALIZED LOAN
SERVICING, LLC,

Defendants.

CV 16-61-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendation on July 20, 2016, recommending granting Defendant Specialized Loan Servicing, LLC's ("SLS") motion to set aside default pursuant to Federal Rule of Civil Procedure 55(c). Plaintiff John Jacobs ("Jacobs") failed to timely object to the Findings and Recommendation, and so waived his right to de novo review of the record. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been

committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Having reviewed the Findings and Recommendation, the Court agrees with Judge Lynch that SLS’s motion should be granted. The Findings and Recommendation did not clearly error because: (1) setting aside the entry of default will not prejudice Jacobs; and (2) SLS asserts a potentially meritorious defense to the claims raised in the complaint. *Falk v. Allen*, 739 F.2d 461, 463 (9th Cir. 1984). Further, though SLS does not dispute that it was properly served and had actual notice of the summons and complaint, the Court agrees with Judge Lynch that there is no evidence indicating that SLS acted with bad faith in failing to timely answer. Finally, due to the Ninth Circuit’s “policy of favoring judgments on the merits,” the Court will grant SLS’s motion and adopt the Findings and Recommendation in full. *United States v. Signed Personal Check No. 730 of Yubran S. Mesle*, 615 F.3d 1085, 1091 (9th Cir. 2010) (citation omitted).

There being no clear error in Judge Lynch’s Findings and Recommendation, IT IS ORDERED that:

(1) Judge Lynch’s Findings and Recommendation (Doc. 28) are ADOPTED IN FULL.

(2) Defendant Specialized Loan Servicing, LLC's Motion to Set Aside

Entry of Default (Doc. 10) is GRANTED.

Dated this 8th day of August, 2016.

A handwritten signature in blue ink, reading "Dana L. Christensen", is written over a horizontal line.

Dana L. Christensen, Chief District Judge
United States District Court